

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

Bky No. 04-60106
Chapter 11

In re:

Daniel S. Miller,
Debtor.

**NOTICE OF MOTION AND MOTION FOR PAYMENT OF COSTS AND
EXPENSES FOR THE LIQUIDATION OF GRAIN**

1. Daniel Miller, d/b/a Danielson Grain (the "Debtor"), by and through its special counsel, Michael S. Dove, hereby moves the Court for the relief requested below and gives notice of hearing herewith.
2. The Court will hold a hearing on this Motion on September 2, 2004, at 2:30 p.m., or as soon thereafter as counsel may be heard, before the Honorable Dennis D. O'Brien, Judge of the United States Bankruptcy Court, Courtroom 228A, 200 Warren E. Berger Federal Building, 316 North Robert Street, St. Paul, Minnesota,
3. Any response to this Motion must be filed and delivered not later than August 30, 2004, at 2:30 p.m. which is three business (3) days before the date set for the hearing, or filed and served by mail not later than August 24, 2004, which is seven business (7) days before the time set for the hearing.
4. This Motion is filed pursuant to 11 U.S.C. § 557 and Local Rules 9013-1 through 9013-3.
5. The involuntary petition commencing this case was filed February 3, 2004. On February 18, 2004, Debtor converted the involuntary petition to a case under Chapter 11. This case is now pending in this Court.
6. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. § § 1334 and 157(a), Local Rule 1070-1 and 11 U.S.C. § 557. This is a core proceeding.
7. At the time of the involuntary petition, Debtor operated a "grain storage facility" as defined in 11 U.S.C. § 557.
8. On March 29, 2004, the Court ordered the liquidation of the grain debtor had purchased from farmers and was holding for resale. The order provided that a representative of the Unsecured Creditors Committee would be present at all times during the disposition of debtor's grain. The representative was to perform various tasks during the liquidation.

9. The Debtor has received bills from the Unsecured Creditors Committee's representatives requesting payment for the reasonable costs and expenses incurred during the grain liquidation and preservation of grain assets. These bills total approximately \$4,678.30.

10. Pete Anderson assisted the Unsecured Creditors Committee by monitoring the grain liquidation between March 5, 2004 and June 25, 2004. Exhibit A represents his bill which consists of 351.5 hours of work at \$10.00 an hour and 2,226 miles at \$0.30 per mile. These charges equal \$4,178.30. (See Exhibit A) Please note, removal of some grain allegedly owned by Nymann occurred by agreement between the parties before the Court's March 29, 2004 Order.

11. Brian R. Erickson, chair of the Unsecured Creditors Committee employed and paid a hired man that contributed 20 hours of work at \$10.00 an hour to monitor the grain liquidation between approximately April 8, 2004 and June 25, 2004.

12. Randy Kroeplin employed and paid a hired man that contributed 30 hours of work at \$10.00 an hour to monitor the grain liquidation between approximately April 8, 2004 and June 25, 2004.

13. By this Motion, Debtor moves this Court for the authority to pay all costs and expenses incurred as a result of the grain liquidation pursuant to 11 U.S.C. § 557(h)(1), which states:

The trustee may recover from grain and the proceeds of grain the reasonable and necessary costs and expenses allowable under section 503(b) of this title attributable to preserving or disposing of grain or the proceeds of grain

14. The recovery of such costs is allowable under 11 U.S.C. § 503(b)(1)(A), which states:

The actual, necessary costs and expenses of preserving the estate, including wages, salaries, or commissions for services rendered after the commencement of the case

15. If testimony is necessary, Debtor reserves the right to call debtor Daniel Miller.

WHEREFORE, the Debtor on Possession respectfully request that this Court to issue an Order:

- a. Granting the Debtor's request for authority to pay all reasonable costs and expenses incurred in the grain liquidation process.

Respectfully submitted,

Dated this 17th day of August, 2004.

/e/ Ryan R. Dreyer

Michael S. Dove #214310

Ryan R. Dreyer #0332252

GISLASON & HUNTER LLP

Attorneys for Debtor

2700 South Broadway

P. O. Box 458

New Ulm, MN 56073-0458

Phone: 507-354-3111

04-AUG-17 13:37

FROM-Gislason Hunter Law Office

T-478 P.005/010 F-191

VERIFICATION

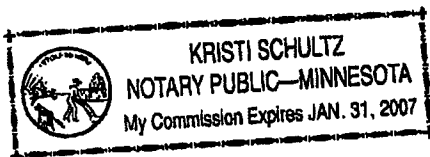
STATE OF MINNESOTA)
) ss.
COUNTY OF HENNEPIN)

Daniel Miller, being duly sworn, deposes and says that he is Debtor of the above-referenced bankruptcy, that he has reviewed the allegations of the foregoing Motion, and that the same are true of his knowledge, except as to matters stated on information and belief, and as to those matters, he believes them to be true.

Daniel S. Miller
Daniel Miller

Subscribed and sworn to before me
this 18 day of August, 2004.

Kristi Schultz
Notary Public
NULIB:183450.1



July 2,2004

Michael S. Dove
Gislason & Hunter LLP
P.O. Box 458
New Ulm, MN 56073-0458

Re: Danielson Grain Bankruptcy No. 04-60106

Mike:

Enclosed is a bill from Pete Anderson who was one of the three individuals that helped the Credit Committee monitor the grain liquidation.

Pete Anderson
38356 280th St SW
Fisher, MN 56723-9342
218-891-2275

The bill is for 351.5 hours @ \$10.00 and 2,226 miles @ \$.30 per mile. The totals are \$3,510.50 plus \$667.80 for mileage. Total equals \$4,178.30. Please have this sent to Pete.

Sincerely,

A handwritten signature in black ink, appearing to read "Brian Erickson", written in a cursive style.

Brian R. Erickson
Credit Committee Chairman

EXHIBIT A

38356 280TH ST. SW
Fisher, MN 56723-9342
218-891-2275

Peter Anderson Hour

June 1/04 8:00 AM to 8:00 PM = 12 hr Kilden
June 2/04 7:30 AM to 9:00 PM = 14 hr Kilden
June 3/04 8:00 AM to 8:00 PM = 12 hr Stengels
June 4/04 8:00 AM to 6:00 PM = 10 hr Jeffery + ~~Stengels~~ Stengels
June 9/04 8:00 AM to 10:00 PM = 14 hr EK7 + Kilden
June 11/04 10:00 AM to 5:00 PM = 7 hr EK7
June 14/04 8:00 AM to 6:00 PM = 10 hr EK7 + Kilden
June 15/04 8:00 AM to 7:00 PM = 11 hr Kilden
June 17/04 8:30 AM to 7:30 PM = 1 1/2 hr EK7 + Offutt + W Johnson
June 18/04 7:00 AM to 7:00 PM = 12 hr W Johnson + Offutt
June 21/04 6:00 AM to 12:00 PM = 6 hr W Johnson

35 1/2

\$10.00
~~\$2.50~~ Per Hour

~~4,398.75~~

\$3,510.50

2,226 miles x 30¢ = \$667.80 mileage

\$12.50 Per Hour

Peter Anderson Hour

Mar 5/04 6:30 AM to 6:30 PM = 12 hr Kilden
Mar 8/04 6:30 AM to 6:30 PM = 12 hr Kilden
Mar 9/04 6:30 AM to 5:30 PM = 11 hr Kilden
April 13/04 6:00 AM to 8:00 PM = 14 hr Kilden
April 14/04 6:00 AM to 8:00 PM = 14 hr Kilden
April 15/04 1:00 PM to 9:00 PM = 9 hr Kilden
April 16/04 6:00 AM to 4:00 PM = 10 hr Kilden
April 19/04 8:00 AM to 7:00 PM = 11 hr Kilden
April 21/04 7:00 AM to 6:00 PM = 11 hr Kilden
April 22/04 6:30 AM to 3:30 PM = 9 hr Kilden
April 23/04 8:00 AM to 6:30 PM = 10 1/2 hr Kilden
April 24/04 8:00 AM to 10:00 AM = 2 hr E & F
May 5/04 12:00 PM to 7:00 PM = 7 hr M Connaran
May 6/04 9:00 AM to 12:00 PM = 3 hr Peter Anderson
May 7/04 11:00 AM to 5:00 PM = 6 hr Peter Anderson
May 10/04 8:00 AM to 4:00 PM = 8 hr Peter Anderson
May 18/04 1:00 PM to 6:00 PM = 5 hr Peter Anderson
May 19/04 8:00 AM to 12:00 PM = 4 hr Peter Anderson & Jeffery
May 20/04 8:00 AM to 7:00 PM = 11 hr Jeffery
May 21/04 7:00 AM to 7:00 PM = 12 hr Jeffery
May 24/04 1:30 PM to 3:30 PM = 2 hr Jeffery
May 25/04 7:30 AM to 9:30 PM = 14 hr Stenzel
May 26/04 8:00 AM to 7:00 PM = 11 hr Stenzel
May 27/04 8:30 AM to 9:00 PM = 13 1/2 hr Stenzel
May 28/04 8:30 AM to 7:30 PM = 11 hr Stenzel

Peter Anderson miles

3-5-04	Home to Tilden 33 - to Home 33 = 66
3-8-04	Home to Tilden 33 - to Home 33 = 66
3-9-04	Home to Tilden 33 - to Home 33 = 66
4-13-04	Home to Tilden 33 - to Home 33 = 66
4-14-04	Home to Tilden 33 - to Home 33 = 66
4-15-04	Home to Tilden 33 to Home 33 = 66
4-16-04	Home to Tilden 33 to Home 33 = 66
4-19-04	Home to Tilden 33 to Home 33 = 66
4-21-04	Home to Tilden 33 to Home 33 = 66
4-22-04	Home to Tilden 33 to Home 33 = 66
4-23-04	Home to Tilden 33 to Home 33 = 66
4-24-04	Home to Tilden 33 to Home 33 = 66
5-5-04	Home to McConneran 2½ to Home 2½ = 5
5-19-04	Home to E.H. 7 18 to Jeffers 2½ to E.H. 7 2½ to Home 18 = 41
5-20-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68
5-21-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68
5-24-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68
5-25-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68
5-26-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68
5-27-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68
5-28-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68
6-1-04	Home to E.H. 7 18 to Tilden 51 to Home 33 = 102
6-2-04	Home to E.H. 7 18 to Tilden 51 to Home 33 = 102
6-3-04	Home to E.H. 7 18 to Stangle 16 to E.H. 7 16 to Home 18 = 68

Peter Anderson
Mills

- 6-4-04 Home to E.H. 718 - to Stangle 16 to E.H. 716 to Home 18 = 66
6-9-04 Home to E.H. 718 to Tilden 51 to Bayou 30 to Tilden
30 to E.H. 751 to Home 18 = 198
6-11-04 Home to E.H. 718 to Home 18 = 36
6-14-04 Home to E.H. 718 to Tilden 51 to T.R. 7. 31 to Tilden 31
to Home 33 = 164
6-15-04 Home to Tilden 33 - to Home 33 = 66
6-17-04 Home to E.H. 718 to Home 18 = 36
6-18-04 Home to E.H. 718 to Home 18 = 36
6-21-04 Home to E.H. 718 to Home 18 = 36

~~2226 Miles~~
2226 Miles

(FORM DD)

U. S. BANKRUPTCY COURT
DISTRICT OF MINNESOTA

In Re: Daniel S. Miller

**UNSWORN DECLARATION
FOR PROOF OF SERVICE**

Debtor(s): Case Number BKY 04-60106

Kari Gleisner, employed by Gislason & Hunter LLP, attorney(s) licensed to practice law in this court, with office address of 2700 South Broadway, P.O. Box 458, New Ulm, Minnesota 56073, declares that on August 17, 2004, I served the annexed **Notice of Motion and Motion for Payment of Costs and Expenses for the Liquidation of Assets; and proposed Order** upon each of the entities named below by mailing to each of them a copy thereof by enclosing the same in an envelope with first class mail postage prepaid and depositing same in the post office at New Ulm, Minnesota, addressed to each of them as follows:

See attached Service List

And I declare, under penalty of perjury, that the foregoing is true and correct.

Executed: August 17, 2004

Signed: /e/ Kari Gleisner

**Community Bank of the Red
River Valley**
1413 Central Ave. NW
East Grand Forks MN 56721

Dan Juneau
17399 240th Street SE
Red Lake Falls MN 56750

Court Administrator
P.O. Box 619
Thief River Falls MN 56701

Clayton Drake
4709 Rose Creek Parkway
Fargo ND 58104

Ron Guttu
13246 W. Mesa Verde Drive
Sun City West AZ 85375

IRS Special Procedures Branch
316 N. Robert St. - Stop 5700
St. Paul MN 55101

IRS District Counsel
175 E. 5th St.
St. Paul MN 55101

IRS - District Director
316 N. Robert St. #389
St. Paul MN 55101

Joe Juneau
c/o Dan Juneau
17399 - 240th St. SE
Red Lake Falls MN 56750

Minnesota Canola Council
4630 Chruchill Street #1
St. Paul MN 55126

Minnesota Corn Research
P.O. Box 236
Blue Earth MN 56013

Minnesota Soybean Research Lock
Box
Account P.O. Box 385
Mankato MN 56002

Minnesota Wheat Research
2600 Wheat Drive
Red Lake Falls MN 56750

MN Barley Research
2601 Wheat Drive
Red Lake Falls MN 56750

MN State FSA Office
375 Jackson, Suite 400
St. Paul MN 51105

Red Lake County FSA
Rt 1, Box 34
Red Lake Falls MN 56750

**State of Minnesota Dept. of
Revenue
Collection Division**
600 N. Robert
St. Paul MN 55146

Roylene A. Champeaux
Asst. U.S. Attorney
600 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Catherine Tucker
Attorney at Law
Volvo Commercial Finance
P. O. Box 26131
Greensboro, NC 27402

Jim Gryniewski
Assistant Director
MN Dept of Ag
90 West Plato Blvd.
St. Paul, MN 55107

Edwin M. Odland
Odland, Fitzgerald, Reynolds & Remick
P. O. Box 457
Crookston, MN 56716

U.S. Trustee
1015 U.S. Courthouse
300 South Fourth Street
Minneapolis, MN 55415

Daniel S. Miller
11957 Maple Lake Dr. S.E.
Mentor, MN 56736

Edward F. Klinger
Vogel Law Firm
215 - 30th Street North
P. O. Box 1077
Moorhead, MN 56560-1077

Mr. David C. McLaughlin
25 N.W. 2nd Street
Suite 102
Ortonville, MN 56278

Ralph F. Carter
Attorney at Law
311 South Fourth Street
Suite 101
Grand Forks, ND 58201-4782

Kevin T. Duffy
Duffy Law Office
1008 W. 2nd Street
P. O. Box 715
Thief River Falls, MN 56701

David T. DeMars
Attorney at Law
15 Broadway, Suite 510
P. O. Box 110
Fargo, ND 58107-0110

Allen J. Flaten
Attorney at Law
Bremer Financial Center, Suite 200
3100 So. Columbia Road
P. O. Box 13417
Grand Forks, ND 58208-3417

Jon R. Brakke
218 NP Avenue
P. O. Box 1389
Fargo, ND 58107-1389

Carl E. Malmstrom
Attorney at Law
1105 Highway 10 East
P. O. Box 1599
Detroit Lakes, MN 56502

Kip M. Kaler
Kaler Doeling Law Office
P. O. Box 423
Fargo, ND 58107-0423

Lowell P. Bottrell
Anderson & Bottrell
P. O. Box 10247
Fargo, ND 58106-0247

Wayne H. Swanson
Swanson Law Office
213R North Broadway
P. O. Box 555
Crookston, MN 56716-0555

Robert A. Woodke
Brouse, Woodke & Meyer
312 America Ave. N.W.
P. O. Box 1273
Bemidji, MN 56619-1273

James G. Powers
McGrath, North, Mullin & Kratz
First National Tower, Suite 3700
1601 Dodge Street
Omaha, NE 68102

Joe Philipp
22878 – 260th Avenue NE
Goodridge, MN 56725

Phillip L. Kunkel
Gray, Plant, Mooty
1010 West St. Germain
Suite 600
St. Cloud, MN 56301

Craig A. Peterson
Craig A. Peterson, Ltd.
2108 So. University Drive
Suite 102B
Fargo, ND 58103

James J. Niemeier
James G. Powers
McGrath, North, Mullin & Kratz
First National Tower
1601 Dodge Street, Suite 3700
Omaha, NE 68102

Brian F. Leonard
100 South Fifth Street
Suite 2500
Minneapolis, MN 55402-1216

Mr. Pete Anderson
RR
Fisher, MN 56723

Randy Kroeplin
3434 Odyssey Circle
Grand Forks ND 58201

UNITED STATES BANKRUPTCY COURT
DISTRICT OF MINNESOTA

Bky No. 04-60106
Chapter 11

In re:

Daniel S. Miller,
Debtor.

**ORDER AUTHORIZING THE PAYMENT OF COSTS AND EXPENSES FOR THE
LIQUIDATION OF GRAIN**

This matter came before the Court on September 2, 2004, pursuant to Debtor's Motion to for Payment of Costs and Expenses incurred during the Liquidation of Grain. Based upon the arguments of counsel, all files, records and proceedings herein:

IT IS HEREBY ORDERED:

1. That the Debtor's Motion for Payment of Costs and Expenses for the Liquidation of Grain is approved; and
2. That the Debtor's request for authority to pay all reasonable costs and expenses incurred in the grain liquidation process is granted.

Dated this ____ day of August, 2004.

Honorable Dennis D. O'Brien
U.S. Bankruptcy Court Judge